THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.3323 of 2007

Date: 9th October, 2007

Between :-

K. Sai Priyanka .. Petitioner

And

The Passport Officer, Hyderabad
Near Prashant Talkies/Clock Tower,
Kummariguda, Secunderabad ..
Respondent

THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.3323 of 2007

ORDER:-

This Court issued *rule nisi* on 22-2-2007.

2. The Writ Petition is filed for a Writ of Mandamus directing the respondent to correct petitioner's date of birth as 31-3-1998 in place of 31-3-1987 in Passport No.F-9076929 Type P and Country Code IND in lieu of her Secondary School Certificate bearing BB No.019577, PC/02/0010147/5 and to pass such other suitable orders.

3. It is stated by the writ petitioner that her date of birth

is 31-3-1998. She also further stated that in the month of June, 2005, she applied for Passport with the respondent and along with the application form, she submitted her 10th class certificate i.e., Board of Secondary Education, Secondary School Certificate bearing BB No.019577, PC/02/0010147/5, issued by the Secretary, Board of Secondary Education, A.P., Hyderabad and duly attested by the Head Master, Anthony High School, Himayat Nagar, Hyderabad dt.1-5-2003. It is also further stated by the petitioner that for the purpose of her residential proof, she submitted telephone bill of her father Kommuri Pratap Reddy. The petitioner also stated that in the month of July 2006, she received her Passport dt.30-6-2006 bearing No.F 9076929 from the respondent through the courier but she did verify the particulars contained in it immediately after receiving the same. She also further stated that on 2-1-2007 when her elder brother Rakesh was leaving for USA for higher studies, he wanted her passport for the purpose of her highed education in U.S., and therefore, she taken Xerox copy of the Passport in the last week of December, 2006 and given it to her brother and her brother noticed an error in the date of birth in the Passport i.e., on 31-3-1987 instead of 31-3-1988, which is the correct date of birth. It is also further stated

that after Sankranti Festival, in 3rd week of January, 2007, the petitioner contacted the respondent officials with an application to correct the above technical mistake in the Passport in respect of her date of birth and that the officials interest Passport Office declined to take her application stating that she was late in giving application, as they would entertain complaint only within six days from the date of delivery of the Passport and not thereafter and that for the purpose of correct in the date of birth, she must obtain an order from Civil Court. Further it is stated by the petitioner that she had been advised that in pursuance of the Circular dt.8-4-2001 issued by the Government of India, the Ministry of External Affairs, pursuant to the Judgment of the Hon'ble High Court of Judicature of Bombay in Civil Writ Petition No.1072/2000, an application seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the Passport, Passport Issuing Authority may after verifying/satisfying himself, effect the correction treating the same as technical correction and there is no need for declaratory order in such cases. It is also stated that the refusal on the part of the respondent in not receiving the application of petitioner for correction of her date of birth from 31-3-1987 to 31-3-1988, as arbitrary, illegal and unjust and that

the officials of the respondent ought to have received her application and acted upon. Therefore, the petitioner constrained to approach this Court for Justice.

4. The Circular dt.18-4-2001 reads as hereunder:-

Ministry of External Affairs
(PV-I Section)

Circular

___/401/2/5/2001 *18th April, 2001*

As per the current practice, in case of change of date of birth/place of birth, the applicant is required to produce the original declaratory order from a First Class Judicial Magistrate. However in view of the recent Judgment given by the High Court of Judicature at Mumbai in CWP No.1072 of 2000 filed by Shri Jigar Harish Shah, the following clarifications are issued:

(a) Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

(b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment. PIA may affect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the general clauses Act 1997, a competent

authority issuing a Certificate could also make necessary amendments to the same.

(c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., School/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent Court of jurisdiction, certifying the valid date of birth/place of birth.

Sd//
(Manju)
Under Secretary (PV-I)

All Passport Issuing Authorities

Copy for information to L&T Division, MEA

5. The learned Counsel placed strong reliance on the decision in ***ALI IMRAN v. REGIONAL PASSPORT OFFICER, SECUNDERABAD***[1] wherein the learned Judge of this Court at paras 3 and 4 observed as hereunder:-

> *"Be it noted that under provisions of the Passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the Judgment of the High Court of Bombay referred to hereinafter, it is now permissible for the Regional Passport Officer to accept applications for*

rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the Civil Court.

Having regard to the clarification issued by the Government of India, I directed the learned Standing Counsel for Central Government, Sri K.G.Krishna Murthy to produce a copy of the application made by the petitioner for passport in the year 1999. The application is produced before me today. A perusal of the application along with its enclosures reveal that the petitioner enclosed Secondary School Certificate bearing C019604 dated 10-6-1987 which shows his date of birth as 28-7-1992. Therefore, it cannot be said that an error has crept in the passport issued to the petitioner. As the petitioner is now placing reliance on the on the birth certificate issued by the Registrar of Births and Deaths, Municipal Corporation of Hyderabad, which shows his date of birth as 28-7-1975, his case does not fall within the guidelines/instructions issued by the Government of India. If the petitioner is so advised, he may have to approach the Civil Court or the authorities under the Education Act seeking necessary correction of date of birth in the Secondary School Certificate and then approach the passport

issuing authority. The petitioner's application was rightly not accepted by the respondent."

In ***Mohd.Narsullah Khan v. Regional Passport Officer, Hyderabad***[2] the learned Judge observed at paras 4, 5, 6 and 7 as hereunder:-

"In ***Ali Imran v. Regional Passport Officer, Secunderabad (2003 (4) ALT 474 = 2003 (3) ALD 625,*** *I have considered the Circular dated 18-4-2001 issued by the Government of India in the Ministry of External Affairs pursuant to the Judgment of the High Court of Judicature at Bombay in Civil Writ Petition No.1072 of 2000. The instructions/clarifications issued in the said Circular read as under:*

(a) Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

(b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment. PIA may affect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the general clauses Act 1997, a competent authority issuing a Certificate could also make necessary amendments to the same.

(c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., School/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent Court of jurisdiction, certifying the valid date of birth/place of birth.

In view of the above clarifications, I disposed of the said case observing as under:

Be it noted that under the provisions of the Passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the Judgment of the High Court of Bombay referred to hereinabove, it is now permissible for the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the civil Court.

In this case, the petitioner has produced Secondary School Certificate to prove that his correct date of birth is 1-4-1976. Therefore, the claim of the petitioner is well supported and

squarely falls in Clause (a) of the Circular dt.18-4-2001.

Following the Judgment of this Court in ***Ali Imran (referred above)*** *this Writ Petition is also disposed of directing the respondent to consider the application of the petitioner along with the Secondary School Certificate No.PC/01/0190544/2 PRIVATE, issued by the Secretary, Board of Secondary Education, Andhra Pradesh, Hyderabad, and to pass appropriate orders in the light of the observations made in the above Judgment. There shall be no order as to costs."*

6. In the light of the Circular referred to supra and also the views expressed by this Court in the decisions specified above, this Court is of the considered opinion that the refusal on the part of the respondent to correct the date of birth in the Passport in accordance with the Circular is not just and proper. In view of the same, the Writ Petition is disposed of directing the respondent to consider the correction of date of birth in the Passport bearing No.*F-9076929 Type P and Country Code IND* as per the Secondary School Certificate in accordance with the guidelines specified in the Circular and also in accordance with the views expressed by this Court in the decisions specified supra within a period of four weeks from the date of receipt of this order.

7. The Writ Petition is accordingly disposed of. No order as to costs.

_____

Justice P.S.Narayana

9th October, 2007

smr

---

[1] 2003 (3) ALD 625

[2] 2005(1) ALT 95